



JON M. HUNTSMAN, JR.
Governor

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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER
Executive Director

JERRY D. OLDS
State Engineer/Division Director

February 23, 2007

VINCENT CROPPER
7050 W 600 S
DELTA, UT 84624

Re: **DEMAND FOR PAYMENT**
Sevier River Distribution System
Delinquent Account No(s). 102073

Mr. Cropper:

This letter constitutes a demand for payment of water distribution assessments authorized at UTAH CODE ANN. § 73-5-1 (3)(a). Our records indicate the distribution assessments associated with the above distribution system account(s) have not been paid for at least two years. **YOUR ACCOUNT OR ACCOUNTS ARE CURRENTLY DELINQUENT IN THE TOTAL AMOUNT OF \$2,634.26**, which amount includes previous years' assessments and delinquent penalties. We recently received a partial payment of \$2800, but the amount shown above remains outstanding. A current copy of the assessment statement for this account is enclosed. **THE TOTAL AMOUNT DUE MUST BE PAID PRIOR TO MARCH 15, 2007**

Water user distribution assessments are levied to pay the salary of the water commissioner and the operating expenses of the distribution system as required by statute at UTAH CODE ANN. § 73-5-1 (3)(a)(i). The budget for those items is set at the annual distribution system meeting. A billing for the current years assessment will be sent in a few weeks and will be due by June 1, 2007. This demand for payment is for previous years assessments and penalties that remain unpaid.

The operation of the distribution system and the activities of a water commissioner are intended to assure the orderly distribution of water according to the established water rights and priority schedules. The timely payment of distribution assessments is critical to the continued operation of the distribution system.

Utah statute at UTAH CODE ANN. § 73-5-1 (3)(c) provides remedies for non-payment of distribution assessments. Upon failure to pay an assessment, the state engineer may take any or all of the following actions:

- Forbid use of water while the default continues;
- Create and bring action to enforce a lien on the water right(s) affected; or
- Bring an action against the water user in the district court for the unpaid assessment plus interest, penalties and costs of collection, including court costs and reasonable attorney fees.

If full payment of the amount due is not received within 14 days from the date of this letter, the State Engineer will issue a distribution order forbidding the use of water until the required payment has been made. The State Engineer will also instruct the water commissioner to close, lock and tag your head gate(s) until such time as the required payment has been made.

Diverting water through the tagged head gate(s) prior to receipt of full payment and without consent of the State Engineer, will be a direct violation of the distribution order and any party taking such action will be subject to enforcement actions including the assessment of fines, penalties, and other requirements. Enforcement action is authorized in this case under UTAH CODE ANN. § 73-2-25 (2)(a)(v).

If enforcement action is initiation, administrative fines may be assessed in amounts up to \$1,000 per day for an "unknowing" violation or up to \$5,000 per day for a "knowing" violation, each day of the unlawful activity constituting a separate violation. In addition, a violator may be required to replace up to 200% of the water unlawfully diverted and may be required to reimburse the Division for expenses incurred in investigating and stopping the unlawful activity.

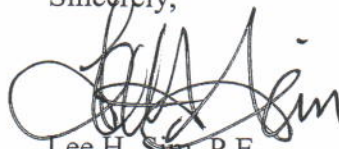
Please be aware that you are responsible for complying with the law and that there are possible administrative, civil and criminal penalties for failing to do so. (UTAH CODE ANN. §§ 73-2-26, 27 and 28; UTAH ADMIN. CODE R. 655-14-12.) This letter does not limit or preclude the Division from pursuing any lawful enforcement options.

Further, if a distribution order is issued, no administrative action will be taken on the affected water right(s) as long as the order remains in force. Change applications, segregation applications, etc., will be received for filing by the Division of Water Rights, but no further action will be taken to process such filings until the delinquent accounts have been settled.

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We remain hopeful these steps will not be necessary and encourage you to resolve this matter at your earliest opportunity. If you have questions concerning the referenced assessment or this process, please contact me at (801) 538-7380 or John Larsen at (801) 538-7431.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee H. Sim', with a large, stylized initial 'L'.

Lee H. Sim, P.E.

Assistant State Engineer for Distribution

cc: Kirk Forbush, Regional Engineer:
Jim Walker, Sevier River Water Commissioner
Heather Shilton, Assistant Attorney General – DNR
Kerry Carpenter, Enforcement Engineer